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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/691,592

10/24/2003

Rodney W. Rashleigh

15748-US

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05/03/2006

MARKS & CLERK

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CANADA

EXAMINER

LARSON, JUSTIN MATTHEW

ART UNIT

PAPER NUMBER

3727

DATE MAILED: 05/03/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/691,592

Applicant(s)

RASHLEIGH, RODNEY W.

Examiner

Justin M. Larson

Art Unit

3727

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 24 October 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-7 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-7 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 24 October 2003 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☒ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

Drawings

1. New corrected drawings in compliance with 37 CFR 1.121(d) are required in this application because the lines are of poor quality. 37 CFR 1.84 (l) reads:

Character of lines, numbers, and letters. All drawings must be made by a process which will give them satisfactory reproduction characteristics. Every line, number, and letter must be durable, clean, black (except for color drawings), sufficiently dense and dark, and uniformly thick and well-defined. The weight of all lines and letters must be heavy enough to permit adequate reproduction. This requirement applies to all lines however fine, to shading, and to lines representing cut surfaces in sectional views. Lines and strokes of different thicknesses may be used in the same drawing where different thicknesses have a different meaning.

Applicant is advised to employ the services of a competent patent draftsman outside the Office, as the U.S. Patent and Trademark Office no longer prepares new drawings. The corrected drawings are required in reply to the Office action to avoid abandonment of the application. The requirement for corrected drawings will not be held in abeyance.

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

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3. Claims 1-7, are rejected under 35 U.S.C. 103(a) as being unpatentable over Wallace et al. (US 6,081,695) in view of Scheller (D 356,441).

Regarding claim 1, Wallace et al. discloses a belt clip extension for use with personal devices having a belt clip as an integral part thereof, whereby a personal use device may be clipped to the belt clip extension and suspended from the belt of a wearer, comprising: a strip of an elongate flexible material having flexibility at least in its longitudinal axis, and having an ability to be twisted about its longitudinal axis at least in a first portion thereof at a first end thereof; said strip having first and second portions (the first portion being the lower half portion where slots 13 and 14 are located, the second portion being the upper half portion where the belt loop is located), with a juncture there between (where these upper and lower halves meet, near fasteners 15); securing means (15) for at least temporarily securing said second portion in its folded condition, whereby said second end is secured in place near the juncture between said first and second portions; and a slot (13) formed through the thickness of said strip in said first portion thereof, in a place near the juncture between said first and said second portion. Wallace et al. differs from the claimed belt clip extension in that when the second portion is folded over onto itself, it then extends all the way down the length of the belt clip extension to also overlap with the first portion, rather than only overlapping itself and ending near the junction between the first and second portions. Also, Wallace et al. fails to disclose the first portion being wider than the second portion.

Scheller, however, also discloses a belt attachment support having a first portion (lower half with cut-out flap) and a second portion (upper half with folded-over belt loop),

but teaches that the second portion only folds over itself and terminates at a region near the junction between the first and second portions rather than extending all the way down the belt attachment support to also overlap the first portion. Scheller also teaches that the second portion is narrower than the first portion. It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the belt clip extension of Wallace et al. by only folding the second portion over onto itself so that it terminated near the junction of the first and second portions, i.e. adjacent the fasteners (15), and also to make the first portion wider than the second portion, as taught by Scheller, in order to reduce the amount of material needed to make the belt clip extension and also to eliminate the need for the secondary fasteners (16), further reducing manufacturing costs.

Regarding the limitation requiring that the second portion be longer than the first portion, Examiner takes the position that there is no inventive step in merely changing the size or dimension of a known feature already present in the prior art. Furthermore, the second portion of Scheller, if unfolded, would clearly be longer than the first portion. It would have been obvious to one having ordinary skill in the art at the time the invention was made to also make the second portion of the modified Wallace et al. belt clip extension longer than the first portion, based solely on the design taught by Scheller, perhaps to allow the belt clip extension to hang further below the belt.

Regarding claim 2, Examiner considers the rivets (15) of Wallace et al. to in fact be dome fasteners, as they are fasteners that have a dome shape on either end (see esp. Figures 6-8).

Regarding claim 3, Wallace et al. discloses that the fastening means (15) are rivets, effectively satisfying the limitations of the claim.

Regarding claims 4 and 5, Wallace et al. discloses that the strap is made of leather (col. 1 line 55).

Regarding claim 6, the belt clip extension of Wallace et al. is made from the same material (leather) as the claimed invention, and therefore must have the same material properties such as certain flexibility, effectively satisfying the limitations of the claim.

Regarding claim 7, the slot (13) of Wallace et al. appears to be of even height and width, however, Examiner takes the position that there is no inventive step in changing the size or dimension of a known feature already present in the prior art. Furthermore, the lower slot (14) is clearly wider than it is high, and also, the flap/slot of Scheller is wider than it is high. It would have been obvious to one having ordinary skill in the art to also make the slot (13) of similar dimension, that is, wider than it is high, as such slot dimensions are clearly well known in the art.

Conclusion


4. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.
5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Justin M. Larson whose telephone number is (571) 272-8649. The examiner can normally be reached on Monday - Friday, 8am - 4pm.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Nathan J. Newhouse can be reached on (571) 272-4544. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

JML
4/19/06


NATHAN J. NEWHOUSE
SUPERVISORY PATENT EXAMINER